

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(212)

CRM-M-11153 of 2023
DATE OF DECISION:-13.03.2023

Jiwan Bala

...Petitioner

vs.

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. B. S. Bhalla, Advocate, for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

HARKESH MANUJA, J.

By way of present petition filed under Section 439 of the Code of Criminal Procedure, 1973, petitioner prays for grant of regular bail in case FIR No.46 dated 04.05.2021 under Sections 22 (later on added Section 29 of the NDPS Act) of the NDPS Act, 1985, registered at Police Station Sadar Moga, District Moga.

In the present case, allegations levelled against the petitioner are about alleged recovery of 1200 tablets of Rolin-0.5 Mg. Learned counsel for the petitioner submits that the investigation in the present case already stands concluded with the filing of *challan* followed by framing of charges. Learned counsel further submits that out of the total 16 witnesses cited by the prosecution, only 1 has been examined so far. Learned counsel also submits that the petitioner is behind the bars for a period of more than 1 year and 4 months and the conclusion of the trial is likely to take some time. In addition, learned counsel also submits that petitioner is suffering from AIDS disease (HIV) as well as dysfunctional uterine bleeding and thus, needs immediate medical care with the falling of hemoglobin level.

On the other hand, learned State counsel opposes the prayer made herein while submitting that custody of the petitioner in the present case is only 1 year 4 months and the charges already stands framed, the trial would conclude within reasonable period.

I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioner.

In the present case, petitioner is already behind the bars for a period of 1 year 4 months now and the investigation already stands concluded with the filing of *challan* followed by framing of charges. However, only one witness has been examined so far, out of the total 16 witnesses as cited by the prosecution. In addition, the petitioner is going through worst phase of her medical condition being suffering from HIV positive as well as dysfunctional uterine bleeding etc. with falling of hemoglobin level. An extract from an affidavit dated 20.08.2022 filed by Mr.Rajiv Kumar Arora, PPS, Superintendent, Central Jail, Faridkot (Annexure P-5), is reproduced hereunder:

3. That Medical Officer, Jail Hospital, Faridkot vide report no. SPL-1 dated 19.08.2022 has submitted a medical status report wherein he has stated that as per previous report the petitioner is a known case of dysfunctional uterine bleeding and the cause of this is bulky uterus with fibroid, diagnosed in ultrasonography. Petitioner is also suffering from AIDS disease (HIV) and is on ART Therapy and also suffering from moderate anemia (HB Level 7.3).....”

Thus, keeping in view the aforesaid besides, the custody of the petitioner as well as her medical condition, prayer made herein is allowed.

However, the aforesaid order shall not be taken to be as a precedent in view of the exceptional medical condition of the petitioner.

Without commenting anything on the merits, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on her furnishing bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate.

However, nothing expressed hereinabove shall be construed as an expression on the merits of the case.

13.03.2023
anil

(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No